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SALCT, JASON P				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/534,964

**Applicant(s)**

KENDALL ET AL.

**Examiner**

Jason P. Salce

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/302)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 11-17 and 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gropper (U.S. Patent No. 5,781,852) in view of Vanderable (U.S. Patent No. 6,204,761) in further view of the Emergency Alert System (Self-Inspection Checklist for Broadcasters and Cable System Operators).

Referring to claim 1, Gropper discloses automatically tuning a plurality of frequency channels associated with said emergency alert function to identify a first frequency channel having higher signal strength relative to said other frequency channels (see **Column 6, Lines 18-31 for tuning to multiple frequency channels and selecting a frequency channel with the highest signal strength and Column 3, Lines 13-19 for the system receiving emergency alert signals**).

Gropper also discloses using said first frequency channel to receive emergency alert signals capable of activating said emergency alert function (**see Column 7, Lines 22-35 for the receiver being capable of detecting and activating an emergency alert function**).

Gropper also discloses automatically tuning a plurality of frequency channels associated with said emergency alert function to identify a second frequency channel having a second highest signal strength relative to said other frequency channels (**see Column 6, Lines 43-54 for performing an additional scan routine that determines a second highest signal strength on a second channel**), in response to determining that said first frequency channel did not receive emergency alert signals (**see Column 6, Lines 31-33 for scanning for a new frequency channel when a signal is lost**) corresponding to the user selected location code associated with said emergency alert function within a predetermined time period (**see below for the EAS reference teaching these limitations**).

Gropper fails to teach that the emergency alert signals correspond to a user selected location code associated with an emergency alert function.

Gropper further fails to teach performing a test with the first or second determined frequency channel, wherein said test includes determining whether said first or second frequency channel receives emergency alert signals within a predetermined time period. According to Applicant's specification, such a test is executed in the form of a required weekly test (RWT).

Vanderable discloses allowing the user to select a location code (see **step 1002 in Figure 3 and Column 4, Lines 31-40**) to compare to incoming SAME location code messages in order to determine if an emergency alert receiver is in the proper location to receive emergency alert messages specific to the area the user's receiving device is located (see **Column 4, Lines 9-63 and Figure 3**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, it would have been obvious to a person of ordinary skill in the art, to modify the emergency alert system, as taught by Gropper, using the user selected location code functionality, as taught by Vanderable, for the purpose of improving the specificity of weather alerts and to decrease the frequency of false alerts (see **Column 1, Lines 60-61 of Vanderable**).

Gropper and Vanderable fail to teach performing a test with the first or second determined frequency channel, wherein said test includes determining whether said first or second frequency channel receives emergency alert signals within a predetermined time period. According to Applicant's specification, such a test is executed in the form of a required weekly test (RWT).

The Emergency Alert System (EAS) reference teaches that required weekly tests are commonly performed by broadcasters and cable system operators (see **item 2 at the bottom of Page 1 and item 5 on Page 2**). Therefore, teaching a test with a determined frequency channel, wherein said test includes determining whether said frequency channel receives emergency alert signals within a predetermined time period. Further note that since Gropper

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teaches scanning channel frequencies for a stronger signal on either a first or second channel, the combined system of Gropper and the EAS reference clearly discloses performing the same RWT on a first, second or even a third channel containing the strongest frequency signal at the time the RWT is performed.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the emergency alert system, as taught by Gropper and Vanderable, using the RWT, as taught by the EAS reference, for the purpose of developing an EAS plan that addresses which weather service alerts stations want sent via the EAS (**see Page 1 of the EAS reference**).

Referring to claim 2, the EAS reference discloses providing an output message responsive to said identified frequency channel failing said test (**see section 9 on Page 3**).

Referring to claim 3, Vanderable discloses that said test further includes measuring signal strength on said identified frequency channel (**see again Column 3, Lines 36-49**).

Referring to claim 4, the EAS reference discloses that said predetermined time period is approximately one week (**see section 2 on Page 1**).

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Referring to claim 5, Vanderable discloses enabling a user to modify an existing location code associated with said emergency alert function (**see Column 4, Lines 21-24**).

Referring to claim 6, see the rejection of claim 5.

Referring to claims 11-17, see the rejection of claims 1-6 and further note that the EAS reference teaches that the location codes are FIPS codes in regards to claim 12.

Referring to claims 22-28, see the rejection of claims 11-17.

Claims 7-10, 18-21 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gropper (U.S. Patent No. 5,781,852) in view of Vanderable (U.S. Patent No. 6,204,761) in further view of the Emergency Alert System (Self-Inspection Checklist for Broadcasters and Cable System Operators) in further view of Gropper (U.S. Patent No. 6,323,767).

Referring to claims 7-8, Gropper, Vanderable and the EAS reference disclose all of the limitations of claim 1, but fail to teach modifying an existing event code associated with said emergency alert function.

Gropper discloses modifying (or adding) an existing event code associated with said emergency alert function (**see Column 8, Lines 26-56**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify EAS system, as taught by Vanderable and the EAS reference, using the event code addition and modification features, as taught by Gropper, for the purpose of allowing a consumer to upgrade the software used to store updated codes transmitted in SAME messages (**see Column 2, Lines 40-43 and Column 8, Lines 15-25 of Gropper**).

Referring to claims 9-10, Gropper, Vanderable and the EAS reference disclose all of the limitations of claim 1, where Vanderable further teaches providing an alert output responsive to activation of said emergency alert function (**see Column 4, Line 51 through Column 5, Line 16**), but fails to teach storing the information associated with said alert output, enabling a user to access said information and enabling said user to replay said alert output.

Gropper discloses storing the information associated with said alert output, enabling a user to access said information and enabling said user to replay said alert output (**see Column 7, Lines 33-57 for storing, accessing and replaying an alert message**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify EAS system, as taught by Vanderable and the EAS reference, using the alert information storage and retrieval functionality, as taught by Gropper, for the purpose of allowing alert messages to be reviewed by the user to determine whether the entire ASCII alert message



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decoded and whether the correct SAME protocol ASCII codes were transmitted and received for the particular event (see Column 7, Lines 27-32 of Gropper).

Referring to claims 18-21 and 29-32, see the rejection of claims 7-10.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax

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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason P Salce/  
Primary Examiner, Art Unit 2421

Jason P Salce  
Primary Examiner  
Art Unit 2421

December 2, 2008